

**DEPARTMENT OF INSURANCE  
STATE OF CALIFORNIA  
45 Freemont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**RH03030475**

**July 15, 2004**

**FINAL STATEMENT OF REASONS**

**AMENDMENT TO “PRINCIPALLY AT FAULT” REGULATIONS**

**UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE  
DIGEST**

There is no need to update any of the information contained in the Initial Statement of Reasons, or in the Informative Digest, for this matter.

**UPDATE OF MATERIAL RELIED UPON**

The only material other than this Final Statement of Reasons that has been added to the rulemaking file since the time the rulemaking record was opened are the public comments. Those comments are summarized and responded to in this rulemaking file.

**MANDATE UPON LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Department has determined that the proposed amendment will not impose a mandate upon local agencies or school districts.

**ALTERNATIVES**

The Commissioner has determined that there are no alternatives that would be more effective, or as effective and less burdensome to affected persons, than the proposed amendment.

**SUMMARY OF AND RESPONSE TO PUBLIC COMMENTS**

The summary and response to public comments received both in writing and during the public hearing is included in this rulemaking file.

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**FINAL TEXT OF REGULATION**

**AMENDMENT TO “PRINCIPALLY AT FAULT” REGULATION**

**TITLE 10. Investment, Chapter 5. Insurance Commissioner  
Subchapter 4.7. Private Passenger Automobile Rating Factors  
Article 4. Good DriverDiscountPolicy**

**§2632.13. Eligibility to Purchase Good Driver Discount Policy and Guidelines for Determination of “Principally At-Fault.”**

(e) An insurer providing insurance coverage at the time of an accident shall not make a determination that a driver was principally at-fault for an accident, other than an indisputably solo vehicle accident and which is not of the type specified in subpart (d), unless the insurer first does the following:

(1) the insurer shall make an investigation of the accident;

(2) the insurer shall provide written notice to the insured of the result of such investigation, including any determination that the insured was principally at fault. The notice shall specify ~~the following: the percentage of fault ascribed to the insured; the percentage of fault ascribed to any other driver or other cause of the accident;~~ the basis of any determination that a driver was principally at fault. The notice shall advise the insured of the right to reconsideration of the determination of fault, as set forth for in Subsection (e)(3);

(3) Within 30 days of receipt by the insured of a written notice required by Subsection (e)(2), the insured may request reconsideration of the insurer's determination that the insured was principally at-fault, ~~including the insurer's determination of the percentage of fault ascribed to any driver.~~ The insurer shall provide written notice of its decision upon reconsideration within 30 days of the insured's request therefor and the notice shall state the reasons for its decision upon reconsideration. The reconsideration shall be made by an employee or agent of the insurer other than the employee or agent who made the determination being reconsidered. The right to reconsideration set forth herein shall not affect any other rights of the insured.

**NOTE**

Authority cited: Sections 1861.02, 1861.025, 12921 and 12926, Insurance Code; and Calfarm Insurance Company v. Deukmejian 48 Cal.3d 805 (1989). Reference: Sections 488.5, 1861.02 and 1861.025, Insurance Code; and Sections 12810 and 16000, Vehicle Code.